

Item No.13
28.11.2023
Court. No. 2
GB

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION*

WPA 2585 of 2023

Sri Uttam Dey
VS
The State of West Bengal & Ors.

*Mr. Navin Banik,
Mr. Sandip Majumder*

...for the Petitioner.

*Mr. Momenur Rahman,
Ms. Pratusha Dutta Chowdhury*

...for the State.

Ms. Supriya Singh

...for the Respondent No.3.

The petitioner is aggrieved by an alleged attempt on the part of the authorities in erecting a pillar on a portion of land situated at L.R. Plot No.730 corresponding to L.R. Khatian No.940 of Mouza-Jitu. The petitioner contends that the petitioner owns 0.192 acres of land on Plot No.730.

The petitioner contends that without any acquisition proceedings and without any notice, some men and agents of the Asian Highway Authorities had visited the spot with the proposal that in the near future, a service road would be constructed.

The petitioner apprehends that without following the due process of law, a part of the land may be encroached upon or taken away by the authorities and the petitioner would be deprived of compensation.

The respondents have not been able to indicate before this Court whether the Asian Highway Authority had required any portion of the land, for construction of the service road and also whether any proposal for acquisition of the land has been received by the State Government. The allegation of the petitioner is also not supported by any documentary evidence.

Under such circumstances, the petitioner is granted liberty to approach the respondent no.3 with a request for information as to whether there has been any proposal for construction of a service road on the land in question and whether any proposal has been sent to the government for acquisition of the same.

The contention of the State respondents is that the claim of ownership by the petitioner, in respect of the land in question, is not correct. Mr. Rahman submits that in the comment column of the L.R. record of rights it appears that the P.W.D. is in permissive possession of the said plot.

The only liberty that has been granted to the petitioner is to enquire as to whether there is any proposal for construction of a service road on the said land or not.

The authority shall dispose of such prayer of the petitioner by giving the necessary information.

The law is well-settled that the owners of the land acquired are entitled to compensation and if there is any acquisition, the law shall take its own course. The right,

title and interest of the petitioner shall not been gone into at this stage and the ownership issue is not decided.

The information shall be given to the petitioner within a period of two months from receipt of the petitioner's representation.

Accordingly, the writ petition is disposed of.

However, there shall be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)